

Remarks:

This is in response to a Requirement for Election/Restriction mailed March 7, 2005, requiring Applicant to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. As a preliminary matter, Applicant is grateful for the time and consideration that has been given to this case.

The Examiner has noted that this Application contains claims directed to the following patentably distinct species of the claimed invention:

I. Claims 1-5, 7-10, 18-22, drawn to an electronic gaming apparatus for playing the game of bingo involving processing of the bingo cards during game play, classified in class 463, subclass 19.

II. Claims 11-17, drawn to an electronic gaming apparatus with removable memory and a release key involving the structure of the housing including stacking the apparatuses, classified in class 463, subclass 46.

In accordance with 35 U.S.C. §121, Applicant hereby elects, with traverse, to prosecute the species indicated by the Examiner as associated with Group I.

I. Traversal Based Upon Grouping of Claims

Applicant requests reconsideration of this requirement. Reviewing each class and subclass and the claims which are associated with it, one finds the following relationships:

I. Claim 11 drawn to an electronic gaming apparatus for playing a game of chance, classified in class 463, subclass 16.

II. Claims 1-5, 7-10, 18-22, drawn to an electronic gaming apparatus for playing the game of bingo involving processing of the bingo cards during game play, classified in class 463, subclass 19.

III. Claims 14-17, drawn to an electronic gaming apparatus for playing a game of chance involving the structure of the housing, classified in class 463, subclass 46.

IV. Claims 12-13, drawn to an electronic gaming apparatus for playing a game of chance involving a removable memory and a release key, classified in class 463, subclass 44.

This alternate separation of the claims is offered in view of the definition set forth for class 463, subclass 46 as it states “

- 46 Housing:
 This subclass is indented under subclass 1. Subject matter including detailed structure for containing or enclosing an electronic data processing element under the class definition.
 (1) Note. **Nominal recitation of housing structure is not sufficient for placement in this subclass.**
 Bold Emphasis Added.

Applicant points out that there does not appear to be sufficient recitation of housing structure in Claim 11 to maintain it under subclass 46.

It thus appears that the instant claims separate into four identifiable groups in which claim 11 in Group I, relating to a game of chance is generic to Groups II, III and IV.

Even the claims in the three groups II, III and IV are to inventions that are of a similar inventive nature and are associated with each other in a manner that should not require election of a species. For example, claims 12 and 13 would appear to be similar to claims 7 and 8.

However, at the very least, Applicant requests modification of the restriction requirement to include, along with the elected Claims 1-5, 7-10, 18-22, the additional Claim 11 as it would appear to require the same search criteria as the elected claims. Thus, there is believed to be no burden that would necessitate separate of Claim 11 from the elected claims.

II. Traversal Based Upon Requirements to Establish a Proper Restriction Under MPEP 803 and 811

According to MPEP 803:

CRITERIA FOR RESTRICTION BETWEEN PATENTABLY DISTINCT INVENTIONS

There are two criteria for a proper requirement for restriction between patentably distinct inventions:

(A) The inventions must be independent (see MPEP § 802.01, § 806.04, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(i)); and

(B) There must be a serious burden on the examiner if restriction is required (see MPEP § 803.02, § 806.04(a) - § 806.04(i), § 808.01(a), and § 808.02).

Furthermore MPEP 811 states, **“Before making a restriction requirement after the first action on the merits, the examiner will consider whether there will be a serious burden if restriction is not required.”** (Emphasis Added.)

Applicant submits, therefore, that as this restriction requirement follows a first action on merits and a response, no basis for a serious burden has been presented in the present restriction requirement as required by MPEP 811. The requirement for separate examination of each of the groups as proposed herein, will result in an unnecessary multiplication of effort, as the same essential area of search will have to be explored in each and every case.

In view of the above and foregoing, reconsideration and withdrawal of the requirement for restriction and concurrent examination of Claims 1-5, 7-22 is believed to be in order, and is courteously solicited. An early and favorable action on the merits is likewise requested.

III. Petition for a One-Month Extension of Time:

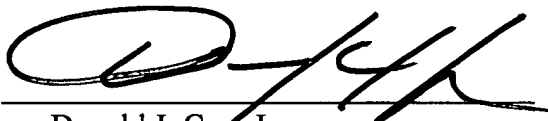
It is requested that the one-month shortened statutory period set for responding to the Office Action dated March 7, 2005 be extended for an additional one-month period to and including May 9, 2005 pursuant to 37 C.F.R. 1.136(a).

Payment in the amount of \$ 60.00 is supplied herewith on the accompanying USPTO
Form 2038.

IV. Summary:

Applicant believes that all the Examiner's rejections have been addressed and overcome.
None of the references, either alone, or in combination, anticipate or render obvious the
invention claimed in claims 1-5 and 7-22. Accordingly, allowance of the presently pending
claims is respectfully requested.

Respectfully submitted,

By: 
Donald J. Cox, Jr.
Attorney for Applicant
PTO Reg. No. 37,804

Law Offices of Donald Cox, LLC
40 Nassau Street
Princeton, NJ 08542
(609) 921-1166
(609) 921-8131 – facsimile